

*ized uranium ore; 3 cotton pads measuring 8" x 13" packed with a mixture of sand and pulverized uranium ore; and 950 empty 8" x 13" cotton pads, at La Salle, Ill., in possession of C. A. Mazzuchelli, t/a Gra-Maze.*

SHIPPED: 11-13-54, from Salt Lake City, Utah.

LABEL IN PART: (Pad) "Gra-Maze Uranium Comforter This Is Your Personal Radioactive Uranium Comforter. Actually Your Own Health Mine In Miniature. Guaranteed To Contain Radioactive Uranium Oxide. Can Be Checked By Geiger Counter. Distributed By Gra-Maze Box 457 La Salle, Ill."

ACCOMPANYING LABELING: Circulars entitled "Now The Gra-Maze Uranium Comforter."

RESULTS OF INVESTIGATION: The ore contained in the 8" x 13" pads had been shipped in bulk and repacked by the consignee. The above-mentioned circulars were printed for the consignee.

Examination showed that the ore (bulk and repackaged material) was slightly radioactive.

LIBELED: 9-30-55, N. Dist. Ill.

CHARGE: 502 (a)—the pad label and the circular accompanying the article, while held for sale, contained false and misleading representations that the article provided an adequate and effective treatment for arthritis, sinusitis, and aching back, arms, legs, and joints, etc., and that it would produce good health.

DISPOSITION: 10-21-55. Default—destruction.

#### DRUGS FOR VETERINARY USE

4957. **Blake's Mineral Compound (2 seizure actions).** (F. D. C. Nos. 36836, 36837. S. Nos. 85-744 L, 85-755 L.)

QUANTITY: 11 pkgs. at Greybull, Wyo., and 18 pkgs. at Buffalo, Wyo.

SHIPPED: Between 6-22-53 and 4-23-54, from Denver, Colo., by Hy-Life Mineral Co. and Dencolo Corp.

LABEL IN PART: (Pkg.) "Blake's Mineral Compound \* \* \* Ingredients: (active) Ammonium Chloride; Potassium Chlorate; Sodium Sulphate; Calcium Carbonate; Tobacco Powder. \* \* \* Net contents—3½ lbs. \* \* \* Mix entire contents of this package (3½ lbs.) with 100 lbs. of \* \* \* salt."

ACCOMPANYING LABELING: (18-pkg. lot) A circular entitled "For Sheep and Cattle pasturing in green alfalfa and clover meadows feed Blake's Mineral Compound."

LIBELED: 6-23-54, Dist. Wyo.

CHARGE: 502 (a)—when shipped, the statement on the package labels "A chemical preparation which, when mixed with salt as directed, is designed for feeding Sheep and Cattle while pasturing in green Alfalfa, Clover, or in Corn and Wheat fields. \* \* \* 1. Mix entire contents of this package (3½ lbs.) with 100 lbs. of finely ground salt. \* \* \* REMOVE ALL OTHER SALT FROM YOUR LIVESTOCK. Place this mixture in troughs conveniently accessible to livestock. Note: Feed above mixture to livestock for several days before turning them into green pastures and constantly thereafter" and the statements in the accompanying labeling of the 18-package lot were false and misleading in that such statements represented and suggested that the article was effective in treating and preventing bloat and the effects of poison weeds in sheep and cat-

tle, whereas the article was not effective for such purposes; and, further, the name "Blake's Mineral Compound," the representation that the declared ingredients were active, and the following directions for use, appearing on the package labels, "1. Mix entire contents of this package (3½ lbs.) with 100 lbs. of finely ground salt. \* \* \* REMOVE ALL OTHER SALT FROM YOUR LIVESTOCK. Place this mixture in troughs conveniently accessible to livestock. Note: Feed above mixture to livestock for several days before turning them into green pastures and constantly thereafter. 2. When grain is fed—for example, to dairy cows—mix one 3½ lb. package of Blake's Mineral Compound with ONLY 15 LBS. OF FINELY GROUND SALT. Use this mixture to season the grain. Allow from one to two level tablespoons per head for cattle, or two level teaspoons per head for sheep. In addition to treating the grain ration when one is fed, be certain also to have the mixture described in paragraph one (above) available in troughs" were false and misleading. Such name, representation, and directions suggested that the article would furnish essential minerals required by sheep and cattle, whereas ammonium chloride and sodium sulfate are not required by sheep and cattle; tobacco powder is not a mineral; and the article, when used as directed, would furnish inconsequential nutritional amounts of potassium chlorate and calcium carbonate.

DISPOSITION: On 7-23-54, Dencolo Corp. and Harvey Rosenbaum, t/a Hy-Life Mineral Co., filed answers denying that the article was misbranded as alleged. On 3-11-55, the Government filed a motion for a summary judgment, which the court, after consideration of arguments and statements of counsel, granted on 2-8-56, handing down the following findings of fact and conclusions of law:

KERR, *District Judge*: "These causes having come on for hearing on February 7, 1956 on Libellant's Motion for Summary Judgment, the Libellant appearing by John F. Raper, Jr., United States Attorney, and the claimants appearing by Walter B. Phelan, their attorney, and the Court after considering the pleadings, affidavits and arguments of counsel makes the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

"1. The articles seized in these actions consist of a number of packages of a drug, the main ingredients of which are calcium carbonate, sodium sulphate, potassium chlorate, ammonium chloride and tobacco powder.

"2. The articles were manufactured in Colorado by Harvey Rosenbaum, doing business as Hy-Life Mineral Company in Denver, Colorado, and shipped in interstate commerce from Denver, Colorado to Buffalo, Wyoming and Greybull, Wyoming by the Dencolo Corporation of Denver, Colorado on or about June 23, 1953 and April 23, 1954; that both of said parties are the claimants in these actions.

"3. When introduced into and while in interstate commerce the labeling of the articles consisted of the following:

(Pkg.) Blake's Mineral Compound \* \* \*  
 Ingredients: (active) Ammonium Chloride; Potassium Chlorate;  
 Sodium Sulphate; Calcium Carbonate; Tobacco Powder. \* \* \* Net  
 contents—3½ lbs. \* \* \* Mix entire contents of this package (3½  
 Lbs.) with 100 lbs. of \* \* \* salt \* \* \* Hy-Life Mineral Co. 2139  
 Blake St. Denver, Colo.

"4. The article was intended for use in the treatment of bloat in sheep and cattle.

"5. When introduced into and while in interstate commerce the labeling of the article did not state that the article was intended to treat 'bloat', nor did it bear any directions for use in treatment of that disease.

"6. When introduced into and while in interstate commerce, and while held for sale, the following statements appeared on each package label:

A chemical preparation which, when mixed with salt as directed, is designed for feeding sheep and cattle while pasturing in green alfalfa, Clover or in Corn and Wheat fields. \* \* \*

1. Mix entire contents of this package (3½ lbs.) with 100 lbs. of finely ground salt. \* \* \* REMOVE ALL OTHER SALT FROM YOUR LIVESTOCK. Place this mixture in troughs conveniently accessible to livestock.

Note: Feed above mixture to livestock for several days before turning them into green pastures and constantly thereafter.

"7. The statements contained on the labels suggest and imply that the article is effective in the prevention and treatment of bloat in sheep and cattle.

"8. This Court in *United States v. Ten Cartons* \* \* \* *Blake's Stop-Bloat Chemicals*, No. 2960 Civil, decided March 11, 1946, after a trial on the merits, that an article made up of the same components as that of the articles under seizure, was misbranded when it was offered as an effective treatment for bloat in livestock.

"9. The products 'Blake's Stop-Bloat Chemicals' and Blake's Mineral Compound involved in this and the previous action have substantially the same composition. The small quantitative differences in the composition would cause no difference in their effect upon sheep or cattle.

"10. The Claimant Hy-Life Mineral Company in this case was the same Claimant in Case No. 2960, though the owner at that time was J. P. Rosenbaum and the present owner is Harvey Rosenbaum. That the same issue involving the same parties has also been adjudicated in the District of Idaho in an action entitled *United States v. 14 105 Pound bags, etc.*, cited in 118 F. Supp. 837, the Court there holding the matter *res judicata* by reason of District of Wyoming No. 2960.

"11. No genuine issue of material fact exists between the parties.

#### CONCLUSIONS OF LAW

"1. The seized article is a drug within the meaning of 21 USCA Section 321 (g) (2).

"2. The article of drug was shipped in interstate commerce.

"3. The drug was misbranded within the meaning of 21 USC 352 (a), in that such statements represent and suggest that the article is effective for treating and preventing bloat in sheep and cattle, whereas the article is not effective for such purposes.

"4. The Claimants are estopped by the principle of *res judicata* from contesting the issue as to whether the drug is effective in treating or preventing bloat in livestock, this issue having been decided adversely to them in prior litigation.

"5. The drug was misbranded while held for sale after shipment in interstate commerce within the meaning of 21 USCA Section 352 (a), in that the statements in its labeling which recommended it for prevention, treatment or cure of bloat in sheep and cattle are false and misleading.

"6. The Libellant is entitled to summary judgment as a matter of law since there exists no genuine issue as to any material fact.

"To all of which the Claimants duly except, which exceptions are by the Court allowed."

On 2-8-56, the court entered a decree of condemnation and ordered that the article be destroyed.

4958. Cattle mineral, hog mineral, and stock tonic. (F. D. C. No. 38430. S. Nos. 18-819/20 M, 18-822 M.)

QUANTITY: 8 bags of *cattle mineral*, 9 bags of *hog mineral*, and 16 bags of *stock tonic* at New Philadelphia, Ohio.

SHIPPED: 7-27-55, from Roaring Spring, Pa., by Young's Stock Food Co.